

U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Robert J. Marsh
CLERK OF COURT

ANTHONY HAMILTON,

Plaintiff,

vs.

No. CIV-00-671 *LH/* JC LFG

LEA COUNTY, LEA COUNTY
CORRECTIONAL FACILITY, WACKENHUT
CORRECTIONS CORPORATION, WARDEN
ERASMO BRAVO, OFFICER PACHECO, LT.
GUERRA, JOHN DOE I, JOHN DOE II, and
JOHN DOE III, individually,

Defendants.

**DEFENDANTS' INITIAL PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Defendants Lea County, Wackenhut Corrections Corporation, Warden Erasmo Bravo, Andrés Pacheco, and Lt. Manuel Guerra, through their attorneys Gary Don Reagan, P.A., submit their initial proposed findings of fact and conclusions of law and request that the Court adopt the findings and conclusions, along with such other findings and conclusions that the Defendants may submit at conclusion of trial, as the findings and conclusions of the Court.

INITIAL PROPOSED FINDINGS OF FACT

1. The Lea County Correctional Facility is located in Hobbs, Lea County, New Mexico.

[The parties stipulate to this proposed finding.]

2. The Lea County Correctional Facility is operated as a prison by Wackenhut Corrections Corporation under contract to the Board of County Commissions of Lea County, New Mexico. [The parties stipulate to this proposed finding.]

3. In April of 1999, Erasmo Bravo, Andrés Pacheco, and Manuel Guerra were employees of Wackenhut Corrections Corporation. [The parties stipulate to this proposed finding.]

4. On or about April 6, 1999, there occurred a disturbance at the Lea County Correctional Facility in which several inmates revolted and otherwise took temporary control of parts of the Lea County Correctional Facility. [The parties stipulate to this proposed finding.]

5. The plaintiff was involved in the disturbance or was otherwise in the immediate vicinity of the location where the disturbance took place.

6. Officials at the Lea County Correctional Facility put an end to the disturbance, placed the Facility on lock-down, and called in members of the Willacy (Texas) and Taft (California) Correctional Emergency Response Teams, a term that is sometimes abbreviated as CERT. [The parties stipulate to this proposed finding.]

7. Andrés Pacheco and Manuel Guerra, who before April of 1999 customarily worked for Wackenhut Corrections Corporation at a correctional facility in south Texas, were members of the Willacy Correctional Emergency Response Team. [The parties stipulate to this proposed finding.]

8. When a correctional facility is placed on “lock-down,” the movement and the activities of its inmates are subject to greater restriction. [The parties stipulate to this proposed finding.]

9. The plaintiff has failed to serve process on Eduardo Ruiz, Eduardo Ruiz is not a party to this action, and the Court has no jurisdiction over him such that the Court can award damages against him or otherwise adjudicate a claim against him.

10. The plaintiff has failed to serve process on Luis Leyva, Luis Leyva is not a party to this action, and the Court has no jurisdiction over him such that the Court can award damages against him or otherwise adjudicate a claim against him.

11. Lea County breached no duty reasonably to operate or maintain the Lea County Correctional Facility.

12. Lea County breached no duties in connection with the hiring or training of prison personnel or with the providing of medical attention and services.

13. The plaintiff has suffered no injury and is entitled to no damages in connection with his claims against Lea County under Counts I and II of his First Amended Complaint.

14. The plaintiff has failed to plead a claim against defendants other than Wackenhut Corrections Corporation under Count III of his First Amended Complaint.

15. Wackenhut Corrections Corporation was not negligent in providing adequately trained and qualified personnel for the operation and management of the Lea County Correctional Facility.

16. The plaintiff has suffered no injury and is entitled to no damages in connection with his claims against Wackenhut Corrections Corporation under Count III of his First Amended Complaint.

17. None of the defendants beat, kicked, or otherwise battered the plaintiff as the plaintiff alleges in Count IV of his First Amended Complaint.

18. The plaintiff has suffered no injury and is entitled to no damages in connection with his claims against Andrés Pacheco and Manuel Guerra or any other Defendant under Count IV of the First Amended Complaint.

19. The Defendants did not subject the plaintiff to cruel and unusual punishment, did not fail adequately to supervise, train, hire, and supervise subordinate personnel, did not fail to afford the Plaintiff medical treatment in deliberate indifference to the plaintiff's rights as alleged under Count V of the First Amended Complaint.

20. The plaintiff has suffered no injury and is entitled to no damages in connection with his claims against the Defendants under Count V of the First Amended Complaint.

21. The plaintiff should take nothing, and judgment should be issued in favor of all Defendants.

22. The Defendants should be entitled to plead further as to their entitlement to costs and attorney fees against the plaintiff.

INITIAL PROPOSED CONCLUSIONS OF LAW

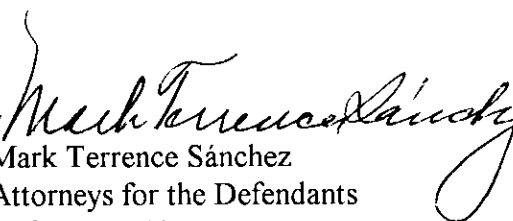
1. The plaintiff has failed to sustain his burden as to all counts of the First Amended Complaint.

2. The plaintiff shall take nothing, and judgment shall issue in favor of all Defendants.

3. The Defendants shall be entitled to plead further as to their entitlement to costs and attorney fees.

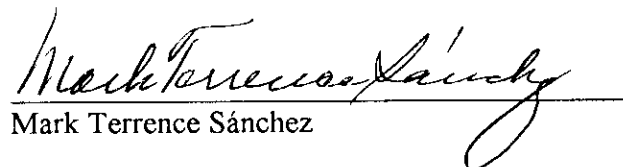
Respectfully submitted,

GARY DON REAGAN, P.A.

by 
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PROOF OF SERVICE

I certify that I served the foregoing Defendants' Initial Proposed Findings of Fact and Conclusions of Law on the Plaintiff by placing a true and correct copy thereof addressed to his attorney Holly R. Harvey, Esq., at Toulouse & Associates, P.A., 2403 San Mateo NE, Suite 9 West, Albuquerque, New Mexico 87110, in the United States mails, first-class postage prepaid, on October 2, 2001.


Mark Terrence Sánchez